

REMARKS

Applicants have studied the Office Action of December 24, 2008, and take this opportunity to present arguments in support of patentability. Claim 1 has been amended. It is believed that upon objective review of the claims, and particularly analyzing this information at the time the invention was made, that it will be clear that the claims define over any fair teaching attributable to the prior art.

Applicants believe that this application is now in condition for allowance and early notice thereof is respectfully requested.

35 USC § 103(a) Rejections

Claims 1, 6, 9 and 14-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (U.S. Patent No. 3,168,365) in view of Snoke (U.S. Patent No. 6,152,552), Gutner (U.S. Patent No. 4,189,796) and Vargo (U.S. Patent No. 4,553,725).

The Examiner acknowledged that Evans fails to teach an aligned first support member punched out of an extending from the first side wall of the cabinet; and support members with straight first and second legs, or hemispherical dimples received in openings in the shelf flanges; wherein the dimples each have rounded edges; and wherein said openings are each circular and extend completely through the flanges, and capable of receiving the rounded edges of a respective dimple.

The Examiner concluded that it would have been obvious to one of ordinary skill in the art to apply the known improvement of Snoke in the same way to a cabinet as taught by Evans in order to obtain the result of a cabinet with support members punched out of the rear wall and the side walls; and whereas the flange and L-shaped support members of both Gutner and Evans are both equivalent alternative structures for accomplishing similar purposes, it therefore would have been obvious to one of ordinary skill in the art to substitute the known flange and dimpled L-shaped support member of Gutner for the flange and curved L-shaped support member of Evans, since the results of such a substitution would have been predictable; and whereas the dimple and opening of both Gutner and Vargo are both equivalent alternative structures for accomplishing similar purposes, it therefore would have been obvious to one of ordinary skill in the art to substitute the known dimple and opening of Vargo for each of the

dimples and openings of Evans as modified by Snoke and Gutner, since the results of such a substitution would have been predictable; thereby providing the structure substantially as claimed.

Claim 1 has been amended to recite that a plurality of circular openings are formed in a flange located at a second end of the first side wall, and are also formed in a flange located at a second end of the second side wall. Support members extend from a first end of the first side wall and the second side wall. One of the circular openings formed in the first and second side walls receives a support member formed in the third wall. None of the prior art, alone or in combination teaches a wall having a combination of support members and openings for receiving the support members.

Evans teaches hooks 17 mounted on metal straps 18 attached or welded to a cabinet wall 11. Slots 16 are formed in a separate front portion of the cabinet. Snoke teaches holes 40 and tubs 44 that are not formed on the same side walls.

Gutner teaches notches 16 on wall 13 and a tongue 18 on separate wall 14, but openings and tongues are not taught on the same wall. Vargo teaches a protuberance 94 on a clip 12 which is spring biased into aperture 88 of a shelf 14. Again, there is no combination of support members and openings which receive the support members formed on the same wall. Thus, claim 1 and claims 5, 6, 9 and 14 dependent thereon are in condition for allowance.

Claim 5 was rejected under 35 U.S.C. 103(as) as being unpatentable over Evans, Snoke, Gutner and Vargo, further in view of Young (U.S. Patent No. 3,677,202). The Examiner acknowledged that Evans, Snoke, Gutner and Vargo fail to teach rounded upper edges on the support members. Young, however, was deemed to teach a shelf support structure (see Figs. 2, 4) having support members (25) punched out of and extending from walls (23), the support members having rounded upper edges (35; see Fig. 4).

Claim 5 depends from amended claim 1 and is in condition for allowance for the reasons given for claim 1.

35 USC § 112 Rejections

Claims 1, 5, 6, 9 and 14 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, in claim 1, the term "therethrough" was deemed to lack antecedent basis in the claim. Claim 1 has been amended to overcome this rejection.

CONCLUSION

Applicants respectfully submit that the present Amendment removes issue for appeal, or in some other way, requires only a cursory review by the Examiner. The claims as amended do not raise any issues with regard to new matter, do not present new issues requiring further search or consideration and/or place the application into better for appeal. Accordingly, the amendment should be entered and the application forwarded for issuance.

For the reasons detailed above, it is respectfully submitted that all claims remaining in the application are now in condition for allowance.

No additional fee is believed to be required for this Amendment. If, however, a fee is due, the Commissioner is authorized to charge our Deposit Account No. 06-0308.

In the event the Examiner believes a telephone call would expedite prosecution, he is invited to call the undersigned.

Respectfully submitted,

FAY SHARPE LLP

Date: 3/24/09



James E. Scarbrough, Reg. No. 47,056
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, Ohio 44115-1843
216.363.9000